

HIPAA and FERPA

The [Family Education Rights and Privacy Act](#) (FERPA) is a federal law passed in 1974 to protect the privacy of student education records. It gives parents or eligible students control over their educational records and prohibits educational institutions from disclosing personal identifiable information in education records without consent.

The [Health Insurance Portability and Accountability Act](#) (HIPAA) is a federal law passed in 1996 that was designed to improve the efficiency and effectiveness of the health care system with standards for electronic health care transactions and data security. The law also adopted federal privacy and protections for individually identifiable health information. The [HIPAA Privacy Rule](#) set national standards for the protection of individually identifiable health information that is handled by health plans, health care providers, and health care clearinghouses (which process information exchanged between health plans and health care providers). HIPAA is generally known as the national guiding standards for protecting sensitive patient health information from being disclosed without the patient’s consent. These standards were designed to protect individual’s personal health information while it flows through the health care system.

The application of FERPA and HIPAA in a SBHC collaboration often raises a number of questions, as parties new to the SBHC model may not understand privacy laws in both education and health care, where they intersect, and how they are applied in a school-SBHC collaboration in practice.

A HIPAA-FERPA overview:

SBHCs → HIPAA	Schools → FERPA
<ul style="list-style-type: none"> Covers student protected health information (PHI) held/transmitted by a healthcare provider, i.e. information from the SBHC’s medical record <ul style="list-style-type: none"> Includes demographics, name, address, birthdate, SSN, and any other personally identifiable data Also includes info relating to past, present, or future physical or mental health condition, healthcare provided to patient, or payment for healthcare 	<ul style="list-style-type: none"> Covers personally identifiable information (PII) in a student’s education record <ul style="list-style-type: none"> Includes name, address, SSN, birthdate, student immunization history on record with the school nurse, or other info that could identify a student Schools can disclose “directory info” without consent unless parent/student requests otherwise
<ul style="list-style-type: none"> The person able to consent for care is the person who signs a Release of Information (ROI): parent/guardian, or student if student 18 or older or if relating to confidential care ROI can be general or can be limited in timeframe and scope of information to be shared 	<ul style="list-style-type: none"> A parent or eligible student (aged 18 or older) can authorize disclosure (i.e.: FERPA release form)
<ul style="list-style-type: none"> Disclosure without consent is only allowed to parties who could prevent or lessen a serious and imminent threat to safety 	<ul style="list-style-type: none"> Schools/agency can make case-by-case disclosures without consent to address “articulable and significant threat”

Last revised March 2022. For more information, visit www.wasbha.org or email info@wasbha.org.

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Guidance / resources of note at the national level:

- [Joint Guidance on the Application of the Family Educational Rights and Privacy Act \(FERPA\) And the Health Insurance Portability and Accountability Act of 1996 \(HIPAA\) To Student Health Records \(updated December 2019\)](#)
- [Centers for Disease Control and Prevention \(CDC\) HIPAA-FERPA Infographic](#)

How are HIPAA and FERPA applied in a SBHC collaboration?

Institutional level	Individual Student Level
Memoranda of Understanding (MOU)	FERPA consent
Data-sharing agreements (DSA)	HIPAA Release of Information (ROI)
Operationalizing in practice	

Institutional Level. The parameters for sharing information between schools and SBHCs in compliance with HIPAA and FERPA are laid out at the institutional level in, for example, memoranda of understanding (MOU) and sometimes in additional data-sharing agreements, as noted in the Agreements document on the [Planning, Operating and Sustaining a SBHC](#) page on the WA SBHA website.

Memorandum of Understanding (MOU). Specific to data-sharing and compliance with HIPAA-FERPA, the MOU can clarify:

- Protected health information under HIPAA, including [minor consent law in Washington](#)
- Protected education information under FERPA, including parental access to FERPA records until student is 18
- HIPAA and FERPA releases of information required to share information between parties
- Maintenance of confidentiality of shared information

Data-sharing agreements may have the goals of, for example:

- Preserving the anonymity of student identities, including assurance that identifiable student data is not released to third parties
- Enhancing the ability of the school district and SBHC to improve academic achievement for students by allowing access to individual student records consistent with the requirements of FERPA
- Accurately measuring the district and SBHC’s progress toward improving student outcomes and indicators, and meeting set targets and other goals

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Operationalizing in practice. Once agreements are in place, it will be important for the SBHC sponsor and school to have a strong understanding and respect of the parameters they are operating under and to determine how they will operationalize HIPAA and FERPA guidelines in their everyday interactions to serve their common goal: healthy students, in the classroom, ready to learn. Establishing procedures for student referrals and care coordination will be important for sharing information key to student well-being and academic success, upholding student/patient confidentiality, calling students from class for SBHC appointments with minimal disruption to their learning, and coordinating care.

Individual Level

At the individual student level, a FERPA consent to share a student's education data with the SBHC is typically included in the SBHC registration packet. The parent/guardian or eligible student (18 or older) provides this consent.

A release of Information (ROI) in compliance with HIPAA is used to share student health information with school staff and others. An ROI can be general, or limited in the timeframe and scope of information to be shared.

See the [Planning, Operating and Sustaining a SBHC](#) page on the WA SBHA website for more information on consent and confidentiality and links to SBHC sponsors' websites (for examples of registration packets with FERPA consents). Webinar recordings and resources on *Consent & Confidentiality in School-Based Health Care* can also be found on the [Webinar & Conference Archive](#) page.